

## SENATE BILL No. 427

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-33; IC 22-2-15.

**Synopsis:** Parental leave for school conferences. Requires certain employers of employee parents to provide paid parental leave for school conferences when the conferences cannot be scheduled during the employee's nonworking hours. Provides for a state tax credit for an employer that provides parental leave. Provides for enforcement by the commissioner of labor.

**Effective:** July 1, 2009; January 1, 2010.

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January 12, 2009, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 427

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2010]:

4 **Chapter 33. Tax Credit for Qualified Parental Leave**

5 **Sec. 1. As used in this chapter, "qualified parental leave" means**  
6 **paid parental leave provided to an employee under IC 22-2-15-8.**

7 **Sec. 2. As used in this chapter, "qualified taxpayer" means a**  
8 **corporation that:**

- 9 (1) **is organized for profit;**  
10 (2) **is subject to taxation under IC 6-3-2-1(b); and**  
11 (3) **has any state tax liability.**

12 **Sec. 3. As used in this chapter, "state tax liability" means a**  
13 **qualified taxpayer's total tax liability that is incurred under:**

- 14 (1) **IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**  
15 (2) **IC 6-5.5 (the financial institutions tax); and**  
16 (3) **IC 27-1-18-2 (the insurance premiums tax);**

17 **as computed after the application of the credits that under**

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IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 4. Subject to section 6 of this chapter, a qualified taxpayer is entitled to a tax credit for each employee to whom the qualified taxpayer provides qualified parental leave in a taxable year. For purposes of this chapter, a qualified taxpayer is considered to have provided an employee qualified parental leave if the option of taking qualified parental leave is granted to the employee. A qualified taxpayer is eligible to claim a tax credit under this chapter regardless of whether the employee chooses to use the qualified parental leave.

Sec. 5. The amount of the credit to which a qualified taxpayer is entitled under section 4 of this chapter equals the product of:

- (1) two hundred fifty dollars (\$250); multiplied by
- (2) the number of employees provided qualified parental leave in the taxable year.

Sec. 6. (a) A qualified taxpayer may not claim more than one hundred thousand dollars (\$100,000) of tax credits under this chapter for a particular taxable year.

(b) The amount of tax credits claimed under this chapter by a qualified taxpayer for a particular taxable year may not exceed the qualified taxpayer's state tax liability for that taxable year.

Sec. 7. (a) If the credit provided by this chapter exceeds the qualified taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the qualified taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for nine (9) taxable years following the unused credit year.

(b) A taxpayer is not entitled to any carryback or refund of any unused credit.

Sec. 8. To receive the credit provided by this chapter, a qualified taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The qualified taxpayer shall submit to the department:

- (1) proof of the number of employees provided qualified parental leave by the qualified taxpayer; and
- (2) all other information that the department determines is

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necessary for the calculation of the credit provided by this chapter.

SECTION 2. IC 22-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 15. Parental Leave for School Conferences**

**Sec. 1. This chapter applies after December 31, 2009.**

**Sec. 2. As used in this chapter, "child" means an individual who:**

**(1) is:**

**(A) the biological child;**

**(B) the adopted child;**

**(C) the foster child;**

**(D) the stepchild; or**

**(E) the ward;**

**of an employee; and**

**(2) is enrolled in a school in Indiana.**

**Sec. 3. As used in this chapter, "commissioner" refers to the commissioner of labor appointed under IC 22-1-1-2.**

**Sec. 4. (a) As used in this chapter, "employee" means an individual who has:**

**(1) been employed for at least twelve (12) months by an employer from whom a leave is requested under this chapter; and**

**(2) worked an average number of hours per week equal to at least seventy-five percent (75%) of a full-time equivalent position as defined:**

**(A) in a bona fide agreement between the employer and the employee;**

**(B) by the employer's personnel policies or practices; or**

**(C) in a negotiated collective bargaining agreement or settlement agreement.**

**(b) The term does not include an independent contractor.**

**Sec. 5. As used in this chapter, "employer" means:**

**(1) a qualified taxpayer (as defined in IC 6-3.1-33-2); or**

**(2) the state, including the state educational institutions.**

**Sec. 6. As used in this chapter, "parental leave" means paid leave provided to an employee under section 8 of this chapter.**

**Sec. 7. As used in this chapter, "school" means any of the following:**

**(1) An elementary or a secondary school maintained by a public school corporation (as defined in IC 20-18-2-16).**

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(2) A preschool, an elementary school, or a high school maintained by a state educational institution under IC 20-24.5 or another law.

(3) The following state institutions:

(A) Silvercrest children's development center established by IC 16-33-3-2.

(B) The Indiana Soldiers' and Sailors' Children's Home established by IC 16-33-4-5.

(C) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.

(D) The Indiana School for the Deaf established by IC 20-22-2-1.

**Sec. 8.** An employee is entitled to take paid parental leave totaling not more than six (6) hours in any twelve (12) month period to attend school conferences. However, an employee is entitled to take paid parental leave to attend a school conference under this section only if the conference cannot be scheduled during the employee's nonwork hours.

**Sec. 9.** A parental leave described in section 8 of this chapter is subject to the following conditions:

(1) The employee and the employer shall make a reasonable effort to schedule the parental leave at a mutually convenient time so as not to unduly disrupt the employer's operations.

(2) The employer may require an employee to submit a written request for the parental leave at least seven (7) days before the time desired for the parental leave if the need for the parental leave is reasonably foreseeable. If the need for the parental leave is not reasonably foreseeable, the employee shall give as much notice as is practicable.

(3) Whenever both parents of a child are employees of the same employer at the same work site, the employee who first requests parental leave to attend a child's school conference is the employee entitled to the parental leave under section 8 of this chapter. The employer is required to grant a second employee's request for parental leave to attend the same school conference for the same child only if the second employee's parental leave can be scheduled so as not to unduly disrupt the employer's operations.

(4) The employer may require the employee to furnish a written verification from the child's school that the employee attended the conference at the school during the time of the parental leave. If an employer requires an employee to submit

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a verification, the employee shall submit the verification not later than three (3) working days after the date of the school conference. If the employee does not submit the verification within the required three (3) day period, the employee is subject to the employer's standard discipline imposed for an unexcused absence from work.

**Sec. 10.** A person may not discharge or otherwise discriminate against a person who does any of the following:

(1) Files a complaint, institutes a proceeding, or causes another person to file a complaint or institute a proceeding concerning the rights and duties arising under this chapter.

(2) Assists or intends to assist in an investigation or a proceeding concerning the rights and duties arising under this chapter.

(3) Testifies or intends to testify in an investigation or a proceeding concerning the rights and duties arising under this chapter.

**Sec. 11.** The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

**Sec. 12.** The commissioner shall enforce this chapter.

**Sec. 13. (a)** A person who is aggrieved by an alleged violation of this chapter may file a written complaint with the commissioner not later than thirty (30) days after the earlier of:

(1) the date that the person discovers the violation; or

(2) the date that the person should have discovered the violation.

(b) If a complaint is filed with the commissioner under subsection (a), the commissioner shall investigate the complaint and attempt to informally resolve the complaint.

(c) If a dispute is not informally resolved within one hundred twenty (120) days after the commissioner receives the complaint, the commissioner shall initiate a proceeding under IC 4-21.5-3-6 and adjudicate the complaint under IC 4-21.5-3. The commissioner shall join the complainant and a person who is alleged to have committed a violation under this chapter as parties to the proceeding. Unless the parties to the proceeding agree to a later date or the interests of justice require, the presiding officer in the proceeding shall schedule a hearing on the complaint to be held not later than one hundred eighty (180) days after the commissioner receives the complaint.

**Sec. 14.** The commissioner may issue a reasonable order to remedy a violation under this chapter. The order may include the

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following:

(1) A requirement that the employee be reinstated in the position that the employee held before taking the parental leave described in this chapter or an equivalent position.

(2) A requirement that the employer reimburse the employee for compensation and benefits lost as a result of the violation.

(3) A requirement that the employer pay the employee for reasonable attorney's fees incurred to bring the complaint and participate as a party in the informal and formal proceedings under this chapter.

(4) A requirement that the employer pay a civil penalty to the employee in an amount not to exceed one thousand dollars (\$1,000).

(5) An order that the employer is no longer entitled to the tax credit under IC 6-3.1-33-4 for the current and succeeding taxable years.

Sec. 15. (a) This chapter does not prohibit an employee from taking leave granted under any of the following:

(1) Another law.

(2) A bona fide agreement between the employee and employer or a representative of the employee and the employer.

(3) A policy of the employer.

(b) This chapter does not prohibit an employer from providing school visitation benefits in addition to the requirements of this chapter.

Sec. 16. This chapter does not:

(1) excuse noncompliance with a provision of a collective bargaining agreement or other employment benefit program or plan in effect on July 1, 2009, that is not in substantial conflict with this chapter; or

(2) justify an employer in reducing employment benefits provided by the employer that exceed the benefits required by this chapter.

SECTION 3. [EFFECTIVE JULY 1, 2009] (a) Notwithstanding IC 22-2-15-11, as added by this act, the commissioner of labor shall carry out the duties imposed upon the commissioner under IC 22-2-15-11, as added by this act, under temporary rules adopted in the manner emergency rules are adopted under IC 4-22-2-37.1.

(b) This SECTION expires on the earlier of the following:

(1) The date permanent rules are adopted under IC 22-2-15-11, as added by this act.

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- 1           **(2) December 31, 2010.**  
2           SECTION 4. [EFFECTIVE JULY 1, 2009] (a) IC 6-3.1-33, as  
3           added by this act, applies to taxable years beginning after  
4           December 31, 2009.  
5           (b) This SECTION expires July 1, 2011.

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